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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,663	09/18/2003	Peter Worthington Hamilton	9075ML	8571

27752 7590 05/06/2005

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EXAMINER

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/665,663	<b>Applicant(s)</b> Peter W Hamilton et al	
	<b>Examiner</b> Daniel Zirker	<b>Art Unit</b> 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/19/04</u> | 6) <input type="checkbox"/> Other: ____  |

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1. The Examiner notes that in the specification at page 7, lines 1-4 the cited reference numbers do not match up with Figure 2 as the passage states.

2. The following is a quotation of the second paragraph of 35 U.S.C. § 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicants regard as their invention.

3. Claims 1-19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. More particularly, applicants' use of the terminology "secondary function" throughout is considered to be vague, indefinite and confusing in their various presented article claims. This is because since what is believed to be intended here is a characterization of a composition of matter or element that exhibits a certain property such as set forth in applicants' dependent claim 4, but in the current claim language to refer to a "secondary function" appears to read upon some sort of vague process step, mental step or the like, particularly since the term "secondary function" does not appear to be explicitly defined in the specification. Clarification is requested.

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4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamilton et al. -633 or Hamilton et al. -607 (Hamilton et al. -062 is cumulative to the -607 reference).

Note particularly Hamilton et al. -633, the Abstract, Figures 3, 4, 7 and 8, column 2 lines 20-44, column 4 lines 21-49, column 5 lines 5-22, lines 44-58, column 6 lines 12-31, lines 44-54, column 8 lines 1-13, column 10 lines 8-19, column 11 line 56 - column 12 line 19, column 14 lines 17-26; Hamilton et al. -607, Figures 3, 4, 13 and 16, column 1 lines 14-21, column 2 lines 47-61, column 4 lines 22-42, column 6 lines 45-67, column 7 lines 1-8, lines 25-34, column 8 lines 3-7, lines 15-21, lines 41-47, line 63 - column 9 line 4, column 9 lines 20-47, column 11 lines 31-40, column 13 line 58 - column 14 line 4, column 18 lines 22-30. The references disclose what would be considered

anticipations of at least applicants' broad independent claims except for the fact that a vast number of embodiments is set forth, with no particular focusing on those embodiments which are believed to anticipate applicants' claims. However, note particularly that each reference discloses a suitable sheet material having a plurality of hollow protrusions extending outwardly therefrom and separated from one another by valleys, with a suitable substance such as an adhesive or an adhesive mixed with at least one "secondary function" element such as a lubricant, colorant, preservative or the like (note, e.g. Hamilton et al. -633 column 2 lines 20-43) that is disposed upon at least the first active side of the material within the spaces between the protrusions, which is substantially all applicants' independent claims require. Note also that single or multiple layers within the film structure may be contemplated (Hamilton et al. -633, column 5 lines 46-47) and adhesives are most preferred to be utilized in the valleys and/or depressions, preferably mixed with the wide embodiment of other secondary function elements such as set forth at column 6, lines 28-31 and column 8, lines 1-13 of Hamilton et al. -633. Note also that applicants' preferred material web of high density polyethylene is taught (e.g. Hamilton et al. -607, column 9 lines 19-20, column 11 lines 31-35). What other parameters that are either expressly or

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inherently disclosed are each believed to be obvious modifications to one of ordinary skill, in the absence of unexpected results.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (571) 272-1486. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (571) 272-1478. The fax phone number for this Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Serial No. 10/665,663

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Dzirker:cdc

May 4, 2005

**DANIEL ZIRKER  
PRIMARY EXAMINER**

*Daniel Zinker*